

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

BART HERRON and OLGA HERRON;  
S.H., through his guardian,  
OLGA HERRON; and D.H.,  
through his guardian OLGA  
HERRON

05-CV-659-ST

ORDER

Plaintiffs,

v.

WELLS FARGO FINANCIAL, INC.,

Defendant.

BART E. HERRON  
P.O. Box 1802  
Lake Oswego, OR 97035  
(503) 699-6496

Plaintiff, *Pro Se* and Attorney for Plaintiffs

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**BROWN, Judge.**

Magistrate Judge Janice M. Stewart issued Findings and Recommendation (#73) on May 22, 2006, in which she recommended the Court grant Defendant's Motion for Summary Judgment (#47), deny Plaintiffs' Cross-Motion for Summary Judgment (#52), and deny Plaintiffs' Amended Cross-Motion for Summary Judgment (#56). Plaintiffs filed timely objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also United States v. Bernhardt*, 840 F.2d 1441, 1444 (9<sup>th</sup> Cir. 1988); *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9<sup>th</sup> Cir. 1981), *cert. denied*, 455 U.S. 920 (1982). Because the objecting party did not arrange for the transcription of the hearing on the Motions pursuant to Fed. R. Civ. P. 72(b) nor did any party protest the lack of a transcript, the Court did not review a transcript or tape recording of the proceedings on the Motions for Summary Judgment before the Magistrate Judge as part of the Court's *de novo* review. *See Spaulding v. Univ. of Wash.*, 686 F.2d 1232, 1235 (9<sup>th</sup> Cir. 1982).

This Court has reviewed the pertinent portions of the record

*de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

**CONCLUSION**

The Court **ADOPTS** Magistrate Judge Stewart's Findings and Recommendation (#73). Accordingly, the Court **GRANTS** Defendants' Motion for Summary Judgment (#47), **DENIES** Plaintiffs' Cross-Motion for Summary Judgment (#52), and **DENIES** Plaintiffs' Amended Cross-Motion for Summary Judgment (#56).

IT IS SO ORDERED.

DATED this 16<sup>th</sup> day of August, 2006

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge